

**IN THE DISTRICT COURT OF GUAM
TERRITORY OF GUAM
CRIMINAL MINUTES
TRIAL**

CASE NO.: CR-07-00075-001

DATE: August 13, 2008

HON. FRANCES M. TYDINGCO-GATEWOOD, Chief Judge, Presiding

Law Clerk: Kim R. Walmsley

Court Reporter: Wanda Miles

Courtroom Deputy: Carmen B. Santos

Electronically Recorded: 9:12:12 - 10:19:38
10:35:48 - 11:56:27
1:09:51 - 2:11:37
2:28:04 - 3:47:38
4:04:08 - 4:46:52

APPEARANCES:

Defendant: Nathaniel Diaz Punzalan

Attorney: Stephanie Flores

☒ Present ☒ Custody ☐ Bond ☐ P.R.

☒ Present ☐ Retained ☐ FPD ☒ CJA

U.S. Attorney: Rosetta San Nicolas

U.S. Agent: J. Quintanilla

U.S. Probation: None Present

Interpreter:

Language:

PROCEEDINGS: Jury Trial - Day 2

- Witnesses sworn and examined; exhibits marked and admitted - see attached Exhibit and Witness List, AO Form 187 (and 187a, when applicable).
- Trial continued to: 8/14/2008 at 8:15 AM

NOTES:

PRESIDING JUDGE FRANCES M. TYDINGCO-GATEWOOD						PLAINTIFF'S ATTORNEY ROSETTA SAN NICOLAS	DEFENDANT'S ATTORNEY STEPHANIE FLORES
HEARING DATE (S) August 12, 2008 - Day 1 August 13, 2008 - Day 2						COURT REPORTER WANDA MILES	COURTROOM DEPUTY CARMEN B. SANTOS
JOINT NO.	PLTF NO.	DEF. NO.	DATE OFFERED	DATE IDENTIFIED	DATE ADMITTED	DESCRIPTION OF EXHIBITS* AND WITNESSES	
						9:12:12 - Start Day 2	
						9:14:02 - Jurors seated	
						9:14:36 - Witness Oficial seated, continued DX by Ms. San Nicolas	
	8		8/13/08	8/13/08		Transcript of audio recording of telephone conversation on 1-4-06 at 2:58 p.m.	
	10		8/13/08	8/13/08		Transcript of audio recording of telephone conversation on 1-4-06 at 4:40 p.m.	
	12		8/13/08	8/13/08		Transcript of audio recording of telephone conversation on 1-4-06 at 4:58 p.m.	
	14		8/13/08	8/13/08		Transcript of video/audio recording of meeting on 1-4-06	
						9:18:03 - Voir Dire by Ms. Flores in aid of objection	
						9:22:15 - 9:29:44 - Jurors excused - discussion concerning unavailability of witness to testify re presence during taping/accuracy of transcription	
						Government withdraws request to admit transcripts of audio identified as Exhibits 8, 10, 12, 14	
	9		8/12/08	8/13/08	8/12/08	9:30:37 - Audio recording of telephone conversation on 1-4-06 at 4:40 p.m. - played for the jury	
	11		8/12/08	8/13/08	8/12/08	9:32:07 - Audio recording of telephone conversation on 1-4-06 at 4:58 p.m. - played for the jury	
	13(b)		8/12/08	8/13/08	8/12/08	9:36:21 - Video recording of meeting on 1-4-06 - played for the jury	
						9:48:39 - CX by Ms. Flores	
						9:55:43 - Re-DX by Ms. San Nicolas	
						9:56:49 - Re-CX by Ms. Flores	
						9:57:14 - Witness Oficial excused	
						9:58:26 - Witness John Patrick Blas Aguon called and sworn; DX by Ms, San Nicolas	
	13(a)		8/12/08	8/13/08	8/12/08	10:07:36 - Audio recording of meeting on 1-4-06 - played for the jury	
	14		8/13/08	8/13/08	8/13/08	Transcript of video/audio recording of meeting on 1-4-06; offered by the government; admitted	
	20		8/13/08	8/13/08		Still video image; offered by the government; objected by defense; offer withdrawn	
	21		8/13/08	8/13/08		Still video image; offered by the government; objected by defense; offer withdrawn	
						10:16:38 - CX by Ms. Flores	
						10:18:58 - Witness Aguon excused	
						10:19:38 - 10:35:48 - Jurors excused - Morning Break -	
						10:39:21 - Jurors seated	
						10:39:49 - Witness Jason P. Aguon called and sworn; DX by Ms. San Nicolas	
	20		8/13/08	8/13/08		Still video image; offered by the government; objected by defense; offer withdrawn	
	21		8/13/08	8/13/08		Still video image; offered by the government; objected by defense; offer withdrawn	
						10:46 - Bench conference	
	16		8/13/08	8/13/08	8/13/08	White Plastic bag containing a white towel, a "Jansport" brand green hand bag containing three .45 caliber ammunition magazines; offered by the government, admitted, without objection	
	15		8/13/08	8/13/08	8/13/08	Essex Arms Company Pistol, .45 caliber, SN SS6838, offered, admitted, without objection	

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	17-1 - 17-7		8/13/08	8/13/08	8/13/08	43 unexpended .45 bullets, offered by the government, admitted, without objection	
						11:01:00 - Bench conference	
						11:11:43 - CX by Ms. Flores	
						11:17:33 - Re-DX by Ms. San Nicolas	
						11:21:29 - Re-CX by Ms. Flores	
						11:22:11 - Witness Aguon excused	
						11:23:56 - Witness Richard John Ichihara called and sworn; DX by Ms. San Nicolas	
						11:55:12 - Jurors excused - lunch recess	
						11:56:27 - 1:09:51 - Lunch Recess	
						1:11:38 - Jurors seated	
						1:11:46 - Witness Ichihara seated	
						1:11:55 - CX by Ms. Flores	
						1:24:26 - Re-DX by Ms. San Nicolas	
						1:25:16 - Re-CX by Ms. Flores	
						1:26:10 - Witness Ichihara excused	
						1:27:04 - Witness Roland Okada called and sworn; DX by Ms. San Nicolas	
						1:45:16 - CX by Ms. Flores	
						1:49:43 - Re-DX by Ms. San Nicolas	
						1:51:53 - Witness Okada excused	
						1:52:48 - Witness Theodoro Padua called and sworn; DX by Ms. San Nicolas	
	18			8/13/08		A "Ringspun" brand green canvas bag containing a Springfield Armory Genesee pistol model XD-45 .45 caliber SN US661844 and 11 unexpended .45 caliber bullets	
						2:02:13 - CX by Ms. Flores	
						2:03:22 - Re-DX by Ms. Flores	
						2:03:50 - Witness Padua excused	
						2:05:13 - Witness John T. Davis called and sworn; DX by Ms. San Nicolas	
						2:08:42 - CX by Ms. Flores	
						2:08:59 - Witness Davis excused	
						2:09:32 - Jurors excused - 10 minutes recess	
						2:28:04 - Resume afternoon session	
						2:29:19 - Jurors seated	
						2:30:00 - Witness Henrietta M. Matsumoto called and sworn; DX by Ms. San Nicolas	
	18-1		8/13/08	8/13/08		A "Ringspun" brand green canvas bag containing a Springfield Armory Genesee pistol model XD-45 .45 caliber SN US661844 and 11 unexpended .45 caliber bullets; offered by the government;	
	18-2		8/13/08	8/13/08		Springfield Armory Genesee pistol model XD-45 .45 caliber SN US661844; offered by the government;	
	19		8/13/08	8/13/08		9 unexpended .45 caliber bullets and a magazine; offered by the government	
						2:43:58 - 2:53:16 - Jurors excused - discussion re: chain of custody of Exhibit 18-2	
						2:55:29 - CX by Ms. Flores	

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						2:56:27 - Re-DX by Ms. San Nicolas	
						2:56:48 - Witness Matsumoto excused	
						2:58:05 - Witness Dennis R. Larsen called and sworn; DX by Ms. San Nicolas	
	18-2		8/13/08	8/13/08		Springfield Armory Geneseeo pistol model XD-45 .45 caliber SN US661844; offered by the government;	
	26		8/13/08	8/13/08		Photocopy of Firearm Certificate No. US661844	
	19		8/13/08	8/13/08		9 unexpended .45 caliber bullets and a magazine; offered by the government	
						3:08:04 - CX by Ms. Flores	
						3:08:44 - Re-DX by Ms. San Nicolas	
						3:10:55 - Re-CX by Ms. Flores	
						3:11:54 - Witness Larsen excused	
						3:14:54 - Witness John Quintanilla called and sworn; DX by Ms. San Nicolas	
						Government's oral motion to certify Mr. Quintanilla as a firearm's expert - area of determine origin of firearms and ammunition or manufacture of ammunition and interstate nexus	
						3:21:56 - Voir dire by Ms. Flores in aid of objection to motion to certify Mr. Quintanilla	
						3:25:22 - Court qualifies Mr. Quintanilla	
	18-2		8/13/08	8/13/08		Springfield Armory Geneseeo pistol model XD-45 .45 caliber SN US661844; offered by the government;	
	17		8/13/08	8/13/08	8/13/08	43 unexpended .45 bullets	
	15		8/13/08	8/13/08	8/13/08	Essex Arms Company Pistol, .45 caliber, SN SS6838	
						3:44:21 - CX by Ms. Flores	
						3:45:51 - Re-DX by Ms. San Nicolas	
						18 U.S.C. § - judicial notice requested by government -court will instruct jurors at closing	
						3:47:03 - Jurors excused - 10 minute break	
						3:47:38 - 4:04:08 - Afternoon session resume	
						4:07:01 - Jurors seated	
						4:07:20 - Witness Padua recalled; DX by Ms. San Nicolas	
						4:11:31 - CX by Ms. Flores	
						4:13:23 - Re-DX by Ms. San Nicolas	
						4:15:10 - Witness Padua excused	
						4:15:52 - Witness Okada recalled; DX by Ms. San Nicolas	
						4:29:49 - CX by Ms. Flores	
						4:27:01 - Re-DX by Ms. San Nicolas	
						4:29:05 - Witness Okada excused	
						4:30:05 - Witness Matsumoto recalled; DX by Ms. San Nicolas	
	18-1		8/13/08	8/13/08		A "Ringspun" brand green canvas bag containing a Springfield Armory Geneseeo pistol model XD-45 .45 caliber SN US661844 and 11 unexpended .45 caliber bullets; offered by the government;	
	18-2		8/13/08	8/13/08		Springfield Armory Geneseeo pistol model XD-45 .45 caliber SN US661844; offered by the government;	
	19		8/13/08	8/13/08		9 unexpended .45 caliber bullets and a magazine; offered by the government	

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						Government moves to admit; same objection by Ms. Flores; court sustains objection	
						4:39:06 - Jurors excused for the day; instructed to report by 8:45 a.m.; day 3 to start at 8:15 a.m.	